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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,906	03/23/2001	Joel Gerard Hassell	INTE.02USU1	6323
43997	7590	04/07/2005	EXAMINER	
OPTV/MOFO C/O MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD, SUITE 300 MCLEAN, VA 22102			VU, NGOC K	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/816,906

Applicant(s)

HASSELL ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 6 and 17-23 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 8, 11 and 14 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 9, 10, 12, 13, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/9/02.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 10 is objected to because of the following informalities: it appears that claim 10 depends on claim 9 since the limitation "modifying said duration" is defined in claim 9. Therefore, the examiner considers claim 10 as "the method of claim 9 wherein said step of modifying said duration..." for examining purpose. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 13 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

Claims 13 and 16 are indefinite because there is no antecedent basis for the limitation "said commencement of said insertion" in lines 2-3.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 7, 11 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Blacketter et al. (U.S. 6,415,438 B1).

Regarding **claims 1 and 7**, Blacketter discloses a method for inserting asynchronous data (information resource) into a synchronous stream (television broadcast signal) comprising:

receiving information (trigger) including a first time value (time attribute value) when said asynchronous data may be used (the trigger has a time attribute value indicating the future time when the trigger is to be executed. If there is enough time before the future time for a receiver unit to retrieve the information resource from a remote information store, then the receiver unit retrieves or prefetches the information resource from the remote information store – see col. 6, lines 66-67; col. 7, lines 8-14);

determining a transfer interval (prefetching time period) for said asynchronous data (prefetching time period for prefetching the information resource - see col. 7, lines 46-50);

inserting said asynchronous data into said synchronous data stream at a time prior to said first time value by an amount that is greater than or equal to said transfer interval (it is noted that a time attribute value can be used to facilitate the prefetching of information by a relay station for subsequent insertion of the information into a television broadcast signal. Thus, the insertion of the information into the television broadcast signal at a time prior to the future time by a certain amount of time – see col. 7, lines 27-31).

Regarding **claims 11 and 14**, Blacketter discloses a system for inserting asynchronous data (information resource) into a synchronous stream (television broadcast signal) comprising:

a database/server containing asynchronous data (e.g., remote information store - see col. 7, lines 8-13);

an insertion controller (at relay station) containing a processor and program memory (see col. 7, lines 27-31); and

a software program operating on said insertion controller operable to determine a transfer interval (prefetching time period) for said asynchronous data and to commence

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insertion of said asynchronous data into said synchronous television broadcast stream at a time greater than or equal to the duration of said transfer interval prior to a time (future time) when said asynchronous data may be utilized (it is noted that a time attribute value can be used to facilitate the prefetching of information resource by a relay station for subsequent insertion of the information into a television broadcast signal. The time attribute value indicates the future time. The information resource is inserted into the television broadcast signal at a certain amount of time prior to the future time when the information resource will be displayed. It is further noted that software can be stored on any computer readable medium - see col. 7, lines 27-31; col. 6-7, lines 66-7; col. 11, lines 27-29).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackketter et al. (U.S. 6,415,438 B1) in view of Willard et al. (US 6,738,972 B1).

Regarding **claims 2 and 8**, Blackketter does not specifically disclose determining a transfer interval further comprising dividing file size of the asynchronous data by data transfer data for the asynchronous data to calculate a duration. However, Willard teaches determining duration of the transmission or time required to deliver data by dividing the size of the data by the bit rate at which its packets will be transmitted (see col. 1, lines 57-65). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Blackketter by determining duration of the transmission by dividing the size

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of the data by the bit rate at which its packets will be transmitted as taught by Willard in order to provide mechanism for scheduling delivery of data effectively.

***Allowable Subject Matter***

8. Claims 3, 4, 9 and 10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 12, 13, 15 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Claims 5, 6, 17-23 are allowed.

11. The following is a statement of reasons for the indication of allowable subject matter:

The closest prior art, Blacketter of the record discloses receiving trigger having a time attribute value when the trigger will be executed. A time attribute value can be used to prefetch information resource for subsequent insertion of information resource into a television broadcast signal. Blacketter fails to teach or fairly suggest commencing insertion of first asynchronous data into synchronous stream at a time prior to second time value by a period of time greater than or equal to the sum of first transfer interval and second transfer interval.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

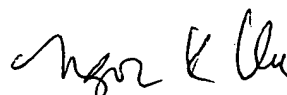
Srinivasan et al. (US 6,357,042 B2) disclose a method and apparatus for multiplexing separately metadata for insertion into a video data stream.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu  
Primary Examiner  
Art Unit 2611

April 4, 2005